

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

GRILL CONCEPTS SERVICES, INC.,
D/B/A THE DAILY GRILL

Petitioner/Cross-Respondent

v.

NATIONAL LABOR RELATIONS BOARD

Respondent/Cross-Petitioner

UNITE HERE LOCAL 11

Intervenor

ORIGINAL

Nos. 16-1238
16-1287

JUDGMENT

Before: HENDERSON and WILKINS, *Circuit Judges*, and RANDOLPH, *Senior Circuit Judge*.

THIS CAUSE came to be heard upon a petition filed by Grill Concepts Services, Inc., d/b/a The Daily Grill to review an Order of the National Labor Relations Board dated June 30, 2016, in Case Nos. 31-CA-126475, 31-CA-132845 and 31-CA-135061, reported at 364 NLRB No. 36, and upon a cross-application for enforcement filed by the National Labor Relations Board to enforce said Order. The Court heard argument of all parties and has considered the briefs and agency record filed in this cause. On January 29, 2018, the Court, being fully advised in the premises, handed down its judgment granting in part the Board's cross-petition for enforcement and remanding to the Board the remainder of the case. In conformity therewith, it is hereby

ORDERED AND ADJUDGED by the Court that Grill Concepts Services, Inc., d/b/a The Daily Grill, Los Angeles, California, its officers, agents,

successors, and assigns, shall abide by said order (See Attached Order and Appendix).

KLH

Judge, United States Court of Appeals
for the District of Columbia Circuit

Robert L. Wilkins

Judge, United States Court of Appeals
for the District of Columbia Circuit

ARR

Judge, United States Court of Appeals
for the District of Columbia Circuit

ENTERED: March 1, 2018

NATIONAL LABOR RELATIONS BOARD

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GRILL CONCEPTS SERVICES, INC.,
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ORDER

Grill Concepts Services, Inc., d/b/a The Daily Grill, Los Angeles, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- (a) Threatening employees with discharge or discipline if they engage in union activities.
- (b) Soliciting employee complaints and grievances in order to discourage employees from selecting union representation.
- (c) Coercively interrogating employees about their union activities and the union activities of other employees.
- (d) Creating the impression that it is engaged in surveillance of its employees' union or other protected concerted activities.
- (e) Promulgating and maintaining the following overly broad employee handbook rule:
 - A "Solicitation" rule that prohibits solicitation by off-duty employees in work areas during non-work time.
- (f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

- (a) Rescind the rule listed in 1(e) above.
- (b) Furnish all current employees with inserts for the current employee handbook that (1) advise that the unlawful rule has been rescinded, or (2) provides the language of a lawful rule; or publish and distribute a revised employee handbook that (1) does not contain the unlawful rule, or (2) provides the language of a lawful rule.

- (c) Within 14 days after service by the Region, post at its facility in Los Angeles, California, copies of the attached notice marked "Appendix A" in both English and Spanish, and at all other locations where the unlawful employee work rule has been in effect, copies of the attached notice marked "Appendix B" in both English and Spanish. Copies of the notices, on forms provided by the Regional Director for Region 31, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice marked "Appendix A" to all current employees and former employees employed by the Respondent at any time since October 12, 2013. If the Respondent has gone out of business or closed any facilities other than the one involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice marked "Appendix B" to all current employees and former employees employed by the Respondent at those facilities at any time since October 12, 2013.
- (d) Within 21 days after service by the Region, file with the Regional Director for Region 31 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX A

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT
OF THE UNITED STATES COURT OF APPEALS
ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT threaten you with discharge or discipline if you engage in union activity.

WE WILL NOT solicit employee complaints and grievances in order to discourage you from selecting union representation.

WE WILL NOT coercively interrogate you about your union activities and the union activities of other employees.

WE WILL NOT create the impression that we are engaged in surveillance of your union or other protected concerted activities.

WE WILL NOT promulgate or maintain the following overly broad employee handbook rule:

A "Solicitation" rule that prohibits solicitation by off-duty employees in work areas during non-work time.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL rescind the employee handbook rule listed above.

WE WILL furnish you with inserts for the current employee handbook that (1) advise that the unlawful rule has been rescinded, or (2) provide the language of a lawful rule; or publish and distribute a revised employee handbook that (1) does not contain the unlawful rule, or (2) provides the language of a lawful rule.

GRILL CONCEPTS SERVICES, INC., D/B/A THE DAILY GRILL

APPENDIX B

NOTICE TO EMPLOYEES

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WE WILL NOT promulgate or maintain the following overly broad employee handbook rule:

A “Solicitation” rule that prohibits solicitation by off-duty employees in work areas during non-work time.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL rescind the employee handbook rule listed above.

WE WILL furnish you with inserts for the current employee handbook that (1) advise that the unlawful rule has been rescinded, or (2) provide the language of a lawful rule; or publish and distribute a revised employee handbook that (1) does not contain the unlawful rule, or (2) provides the language of a lawful rule.

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CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2018, I electronically filed the foregoing document with the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. I further certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

s/Linda Dreeben

Linda Dreeben

Deputy Associate General Counsel

National Labor Relations Board

1015 Half Street, SE

Washington, DC 20570

Dated at Washington, D.C.
this 20th day of February, 2018